

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
CP No.D-5998 of 2024

Date	Order with signature of Judge(s)
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Fresh Case

1. For orders on office objection No.10.
2. For orders on CMA No.26627/2024.
3. For orders on CMA No.26628/2024.
4. For hearing of Main Case.

18.12.2024

Mr. Salahuddin Gandapur, advocate for the petitioner.
Mr. Kafeel Ahmed Abbasi, Addl. Advocate General, Sindh.

Twenty five (25) individuals have collectively filed this Petition, impugning vacation notices having been issued thereto by the Government of Sindh. Notices are stated to be *pari materia* and the representative text is reproduced herein below:

“It has been reported that you have illegally/un-authorizedly occupied the area of Old Barrack near Pir Bukhari and consuming hospital utilities i.e. Electricity, Sui gas and Water etc. resulting heavy burden at budget of JPMC. The Hon’ble High Court of Sindh at Karachi has passed orders to construct Jail Ward at the site.

By exercising the powers vested under Section-9 the Ordinance No.LIV of 1965 (Recovery of possession of Government land), you are directed to vacate the premises within 14 days from the receipt of this notice without any delay, otherwise it will be got vacated and disciplinary action also be initiate under the law.”

Petitioners’ counsel was asked to identify any right, subsisting or otherwise, of the petitioners to remain of the subject property, however, he remained unable to do so. Not a single document conferring any right on any petitioner, in respect of the subject property, could be demonstrated before the Court.

Illegal encroachment is a very serious matter and the same is compounded when such a grave allegation is leveled against a serving Government employee. It appears that instead of responding to the notices, the present petition was filed and interim orders sought to prevent the Respondents from proceeding further with the aforesaid notices. Such conduct does not merit appreciation.

The issue of whether or not unauthorized encroachment has taken place is a factual controversy not amenable to adjudication in writ jurisdiction and also it is not for this Court to determine the culpability for any encroachment. It is the considered view of this Court that the issuance of notices in respect of the encroachment was a correct step taken by the Respondents and that it is just and proper for the said notices to be replied to and the matter proceeded with by the appropriate authority in due compliance with the law.

No case has been set forth before us to merit the invocation of the discretionary¹ writ jurisdiction of this Court; therefore, this petition is hereby dismissed.

Judge

Judge

¹Per *Ijaz Ul Ahsan J. in Syed Iqbal Hussain Shah Gillani vs. PBC & Others* reported as 2021 SCMR 425; *Muhammad Fiaz Khan vs. Ajmer Khan & Another* reported as 2010 SCMR 105.